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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,400	04/09/2001	Maurice Fradin	BE-3969	5701
466	7590	03/10/2004	EXAMINER	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			CORBIN, ARTHUR L	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 03/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No. 091744,400	Applicant(s) FRADIN ET AL
Examiner ARTHUR L. CURBIN	Group Art Unit 1761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 1-2-04
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-12 is/are pending in the application.
- ☐ Of the above claim(s) is/are withdrawn from consideration.
- ☐ Claim(s) is/are allowed.
- ☒ Claim(s) 1-12 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☐ Claim(s) are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

1. Claims 1,3,4,7,8 and 12 are objected to because of the following informalities:  
Claims 1,3,4,7,and 8 are not amended properly since canceled subject matter must be crossed through rather than being bracketed as applicant has done in claim 1, line 14; claim 3, line 3 and 4; claim 4, line 3; claim 7, lines 3-8; and claim 8, lines 4-5. Also, in claim 1, line 6 and claim 12, line 6, "pieces" should be changed to "the pieces,". .  
Appropriate correction is required.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 7, 8, 11,and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fradin (5,017,393, col. 2-3 and claims 1-3). Applicant is referred to paragraph Nos. 6 and 7, paper No. 6. Further, finding the optimum surface area of the ultrathin layer (claims 1 and 12) would require nothing more than routine experimentation by one reasonably skilled in this art.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fradin as applied to claims 1-5, 7, 8, 11 and 12 above, and further in view of Fradin et al (WO 93/14648 abstract), Linane et al (Fig 2) or Condon (2,752,252).

Applicant is referred to the reasoning set forth in paragraph no. 8, paper No. 6.

5. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fradin as applied to claims 1-5, 7, 8, 11 and 12 above, and further in view of Fradin et al

(French patent 2,683,124, Figures 2-4). Applicant is referred to the reasoning set forth in paragraph No. 9, paper No. 6.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 is indefinite in reciting "a piston" since it is not understood which piston is intended. Correction is required without new matter.

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 1-12 are also rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no support in the original disclosure for "an average surface area greater than 20 cm<sup>2</sup>" (claim 1, last 2 lines and claim 12, line 10). According to applicant's remarks (page 8) support for this limitation is found on page 3, lines 12-14 of applicant's specification. However, this portion of the spec. discloses a surface area of "greater than 10 cm<sup>2</sup>",

Correction is required.

10. Applicant's arguments filed January 2, 2004 have been fully considered but they are not persuasive. In the absence of unexpected results the claimed surface area is considered to be a result effective variable and is not deemed to be critical. While there is no direct evidence to support the assertion that vacuum control is conventionally used to apply and release a vacuum, if applicant knows of any other technique to perform such functions applicant is invited to make it of record.

With regard to the rejections of claims 6, 9, 10, motivation for the obviousness has been established in paragraph Nos. 8 and 9, paper No. 6.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Corbin whose telephone number is (571) 272-1399. The examiner can normally be reached on Tuesday-Friday and alternate Mondays from 10:30 am to 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

A. Corbin/af  
March 5, 2004



ARTHUR L. CORBIN  
PRIMARY EXAMINER  
3-5-04